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**IN THE UNITED STATES BANKRUPTCY COURT**  
**THE DISTRICT OF ARIZONA**

In re:

DELTA MECHANICAL INC.  
NEVADA DELTA MECHANICAL, INC.  
CD PLUMBING INC.  
ARIZONA DELTA MECHANICAL, INC.  
CALIFORNIA DELTA MECHANICAL, INC.  
GEORGIA DELTA MECHANICAL, INC.  
NEW MEXICO DELTA MECHANICAL, INC.  
COLORADO DELTA MECHANICAL INC.  
CAROLINA DELTA MECHANICAL, INC.  
FLORIDA DELTA MECHANICAL, INC.  
TEXAS DMI, INC.  
DELTA MECHANICAL, INC.

Debtors.

Chapter 11 Proceedings

Case No. 2:15-bk-13316-GBN  
Case No. 2:15-bk-13327-GBN  
Case No. 2:15-bk-13328-GBN  
Case No. 2:15-bk-13330-GBN  
Case No. 2:15-bk-13331-GBN  
Case No. 2:15-bk-13332-GBN  
Case No. 2:15-bk-13334-GBN  
Case No. 2:15-bk-13335-GBN  
Case No. 2:15-bk-13336-GBN  
Case No. 2:15-bk-13339-GBN  
Case No. 2:15-bk-13341-GBN

Joint Administration Under  
Case No. 2:15-bk-13316-GBN

This filing applies to:

- ☐ ALL DEBTORS S  
☒ ALL REORGANIZED DEBTORS

DELTA MECHANICAL INC.  
NEVADA DELTA MECHANICAL, INC.  
ARIZONA DELTA MECHANICAL, INC.  
CALIFORNIA DELTA MECHANICAL, INC.  
GEORGIA DELTA MECHANICAL, INC.  
COLORADO DELTA MECHANICAL INC.  
CAROLINA DELTA MECHANICAL, INC.  
FLORIDA DELTA MECHANICAL, INC.

**MOTION FOR ENTRY OF A FINAL  
DECREE AND AN ORDER CLOSING  
THE REORGANIZED DEBTORS'  
BANKRUPTCY CASES**

Delta Mechanical Inc., Nevada Delta Mechanical, Inc., Arizona Delta Mechanical, Inc., California Delta Mechanical, Inc., Georgia Delta Mechanical, Inc., Colorado Delta Mechanical, Inc., Carolina Delta Mechanical, Inc., and Florida Delta Mechanical, Inc., (collectively, the “Reorganized Debtors”), through counsel undersigned, hereby move the Court to enter a final decree and close their bankruptcy cases pursuant to § 350(a) of the United States Bankruptcy Code and Rule 3022 of the Federal Rules of Bankruptcy Procedure. This motion is supported by the following memorandum of points and authorities.

### **I. FACTUAL BACKGROUND**

1. On October 19, 2015, the Reorganized Debtors, along with certain affiliates, filed their respective voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Arizona.

2. On November 5, 2015, the Court entered an order approving the joint administration of the bankruptcy cases of the Reorganized Debtors and their debtor affiliates.

3. On June 2, 2017, the *First Amended Plan of Reorganization Dated June 2, 2017 as Amended* (the “Plan”) and the attendant disclosure statement (the “Disclosure Statement”) were filed.

4. On January 31, 2018, the Court entered its *Order Confirming First Amended Joint Plan of Reorganization Dated June 2, 2017 as Amended* (the “Confirmation Order”) modifying and confirming the Plan.

5. The Confirmation Order was never appealed.

6. No other appeals deriving from this case are currently pending, although there is the possibility of a future appeal relating to a prior ruling by the Court regarding pre-confirmation fees and costs incurred by Schian Walker, P.L.C., Keegan, Linscott & Kennon, P.C., and Kirk McCarville, P.C.

7. The Plan, as modified by the Confirmation Order, reorganized the Reorganized Debtors, and called for the dismissal of the bankruptcy cases of certain debtor affiliates (the “Dismissed Debtors”).

1           8.       The previously pending bankruptcy cases of the Dismissed Debtors have been  
2 dismissed.

3           9.       With the possible exception of certain fees which Polsinelli P.C. ("Polsinelli") may  
4 assert to be owed under the Plan, the Reorganized Debtors have paid, as required by the Plan or in  
5 accordance with an agreement reached with the implicated claimant, all of the authorized  
6 administrative expenses of the Reorganized Debtors' bankruptcy estates.

7           10.      The Reorganized Debtors have been in contact with Polsinelli regarding the fees it  
8 alleges to be payable, and expect to receive and invoice, and to come to an agreement on payment  
9 terms, in the near future.

10          11.      Subsequent to entry of the Confirmation Order, the Reorganized Debtors filed  
11 objections (the "Claim Objections") to more than one hundred claims.

12          12.      To the Reorganized Debtors' knowledge, only one claim objection, filed in  
13 connection with a claim asserted by AmTrust North America, on behalf of Wesco Insurance  
14 Company and Technology Insurance Company (the "AmTrust Claim Objection"), remains  
15 unresolved.

16          13.      A negotiated resolution of the AmTrust Claim Objection has been reached, and the  
17 Reorganized Debtors expect a stipulation evidencing that resolution to be filed in the near future.

18          14.      Upon approval of the stipulation resolving the AmTrust Claim Objection, all of the  
19 Claim Objections will have been resolved.

20          15.      During the course of the Reorganized Debtors' bankruptcy proceedings, they  
21 initiated five adversary proceedings (Case Nos. 2:17-ap-00674, 2:17-ap-00675, 2:17-ap-00676,  
22 2:17-ap-00677 and Case No. 2:17-ap-00678, the "Adversary Proceedings").

23          16.      All of the Adversary Proceedings have been resolved and concluded.

24          17.      Upon information and belief, the adversary proceeding commenced by the Official  
25 Committee of Unsecured Creditors, Case No. 2:16-ap-00226, has been resolved and is only  
26 awaiting the lodging of a dismissal order.

27          18.      On, or about, July 13, 2016, Reorganized Debtor California Delta Mechanical, Inc.  
28 ("California Delta") initiated a collection action in the Superior Court of California, County of Los

1 Angeles, against Professional Services Corporation and Plaza Towers Condominium Association  
2 (the “Plaza Towers Litigation”).

3 19. Certain defendants in the Plaza Tower Litigation have asserted counterclaims  
4 against California Delta.

5 20. California Delta asserts that some, if not all, of the claims asserted against it in the  
6 Plaza Towers Litigation were discharged upon confirmation of the Plan, and has filed a motion in  
7 the Plaza Towers Litigation requesting a ruling to that effect.

8 21. Although the Reorganized Debtors do not currently foresee the need for this Court  
9 to enter any orders relating to the Plaza Towers Litigation, they reserve their right to reopen their  
10 bankruptcy cases and seek relief in the future, if that proves necessary.

11 22. Other than the Plaza Towers Litigation, the Reorganized Debtors are not aware of  
12 any legal proceedings in which they anticipate a need for this Court to become involved.

13 23. The Plan, as ultimately amended, appointed Peter S. Davis, C.P.A., by and through  
14 Simon Consulting, L.L.C. as agent for the unsecured creditors (the “Unsecured Creditor Agent”).

15 24. The Unsecured Creditor Agent is in place and, to the Reorganized Debtors’  
16 knowledge, performing the duties allotted to him under the Plan.

17 25. The Reorganized Debtors have been cooperating with the Unsecured Creditor Agent  
18 to address concerns that have been expressed to date, and will continue to cooperate with the  
19 Unsecured Creditor Agent to address any concerns that may arise in the future.

20 26. To date, the Reorganized Debtors have, in accordance with the Plan, made  
21 distributions to creditors holding allowed claims and entitled to receive distributions under the Plan  
22 in the amount of approximately \$1,600,000.

23 27. Additionally, as provided for in the Plan, Chrome, Inc. (“Chrome”) has liquidated,  
24 or is in the process of liquidating, two pieces of real estate to support the payments called for under  
25 the Plan.

26 28. Upon information and belief, the condemnation of a piece of real estate owned by  
27 Chrome and known as the “Signal Butte Property” resulted in the payment of approximately  
28 \$1,000,000 to one of the Reorganized Debtors’ secured creditors (See Dkt.# 1483).

29. Upon information and belief, another piece of real estate owned by Chrome and known as the “Gilbert Property” is under contract and, upon closing, will result in another substantial payment to the Reorganized Debtors’ creditors (*See* Dkt. # 1509).

30. Since entry of the Confirmation Order, the Reorganized Debtors submit that they have maintained substantial compliance with the terms and conditions of the confirmed Plan.

31. The Reorganized Debtors have filed, or will file, all required post-confirmation reports and will promptly pay any unpaid fees owing to the United States Trustee’s office.

32. In light of the foregoing, and of the ongoing financial burden presented by the fees payable to the United States Trustee’s office, the Reorganized Debtors do not believe that there is any need for its bankruptcy case to remain open.

33. The Reorganized Debtors submit that their estates have been fully administered, and that a final decree should be entered in their Chapter 11 cases.

## II. LEGAL ARGUMENT

The closure of a reorganized debtor’s bankruptcy case is governed by 11 U.S.C. § 350(a), which provides: “After an estate is fully administered and the court has discharged the trustee, the court shall close the case.” Rule 3022 of the Federal Rules of Bankruptcy Procedure similarly provides that “[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case.” In assessing a request to close a bankruptcy case, Courts have often considered the factors enunciated in the advisory committee note to Rule 3022.

Entry of a final decree closing a chapter 11 case should not be delayed solely because the payments required by the plan have not been completed. Factors that the court should consider in determining whether the estate has been fully administered include (1) whether the order confirming the plan has become final, (2) whether deposits required by the plan have been distributed, (3) whether the property proposed by the plan to be transferred has been transferred, (4) whether the Reorganized Debtors or the successor of the Reorganized Debtors under the plan has assumed the business or the management of the property dealt with by the plan, (5) whether payments under the plan have commenced, and (6) whether all motions, contested matters, and adversary proceedings have been

1 finally resolved. Fed. R. Bankr. P. 3022, Advisory Committee Note  
2 (1991).

3 In these cases, the aggregation of the aforementioned factors weighs heavily in favor of the  
4 entry of a final decree for the Reorganized Debtors.

5 - The Confirmation Order was entered on January 31, 2018, was never appealed, and is  
6 therefore plainly final.

7 - No deposits were required to be posted or distributed under the Plan.

8 - The only real estate proposed to be transferred under the Plan are the Signal Butte  
9 Property and the Gilbert Property, and they have been, or are in the process of, being liquidated in  
10 support of the Plan.

11 - The Reorganized Debtors have continued and fully assumed the management of the  
12 debtors' business operations and affairs.

13 - All of the payments required to be made on the effective date of the Plan were made in  
14 accordance with the Plan or an agreement with the implicated claimant. The Reorganized Debtors  
15 are making payments to creditors as they become due under the Plan, or as otherwise agreed, and  
16 intend to continue to do so.

17 - All of the Adversary Proceedings and Claim Objections have been, or will soon be,  
18 resolved. The only legal action in which the Bankruptcy Court may need to become involved in  
19 the future is the Plaza Towers Litigation and, if the need arises, this case may be re-opened to the  
20 extent necessary for this Court to issue any future rulings necessary.

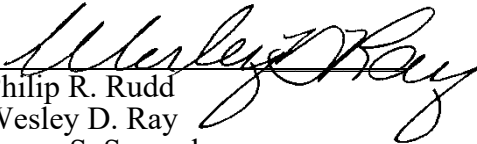
21 Based upon all the foregoing, the Reorganized Debtors submit that their estates have been  
22 fully administered, within the meaning of 11 U.S.C. § 350(a), and nothing in the Reorganized  
23 Debtors' reorganization or the continued implementation of the Plan requires an open  
24 administrative bankruptcy case or justifies the continued accrual of fees payable to the United  
25 States Trustee's office.

26 **WHEREFORE**, the Reorganized Debtors respectfully requests that this Court enter a final  
27 decree and close the above-captioned jointly-administered Chapter 11 cases, while reserving  
28

jurisdiction to decide any issues relating to the Plaza Towers Litigation, or any other matter relating to the implementation or interpretation of the Plan, should the need arise.

DATED: June 27, 2019

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